

FILED

FEB 13 2012

**SECRETARY, BOARD OF
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS & MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE DIVISION OF
OIL, GAS, AND MINING'S NOTICE OF
AGENCY ACTION FOR AN ORDER
FORFEITING TO THE STATE OF UTAH
ALL INTEREST IN THE CERTIFICATE OF
DEPOSIT #9347465958 BEING HELD BY
WELLS FARGO BANK FOR AND ON
BEHALF OF THE STATE OF UTAH AS
SURETY FOR THE PLUGGING AND
ABANDONMENT OF THE FOLLOWING
WELL OPERATED BY ENERTECH
ENERGY, INC: ENERTECH R5T21S6#1;
LOCATED AT SECTION 6 TOWNSHIP 21,
RANGE 21, IN UTAH COUNTY, UTAH.

**ORDER TO
PLUG AND ABANDON WELL
AND
FORFEIT SURETY**

Docket No. 2012-003

Cause No. 275-01

The foregoing titled Notice of Agency Action (NAA) filed by the Utah Division of Oil Gas & Mining, ("Division") seeking an Order of the Utah Board of Oil, Gas and Mining (the "Board") requiring that Enertech Energy, Inc. ("Enertech") forfeit the bond provided for the purpose of plugging the well and reclaiming the well site, and other relief came during a hearing on Wednesday, January 25, 2012 at a regularly scheduled meeting of the Board. The following members of the Board were present and participated in the hearing: Ruland J. Gill, Jr., Kelley L. Payne, Chris D. Hansen, Carl F. Kendell, Jean Semborski, Jake Y. Harouny, and James T. Jensen, Chariman. Michael Johnson, Assistant Attorney General represented the Board.

Testifying on behalf of Petitioner, the Division, in favor of the forfeiture was Mr. Clinton Dworshak – Compliance Officer. The Division was represented by Steven F. Alder, Esq.,

Assistant Utah Attorney General. Mr. Dworshak's testimony explained what actions the Division had taken before filing the NAA seeking the forfeiture of Enertech's bond.

No persons appeared on behalf of the Respondent, Enertech, or any other party in opposition to the NAA.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order in this Cause.

FINDINGS

1. Enertech is a Nevada corporation that was once qualified to do business in Utah, but has failed to renew its business license since January 11, 2011.
2. Enertech is the designated Operator of the Enertech R5T21S6#1 oil and gas well drilled at the following location in Section 6, Township 5, Range 21, Uintah County, Utah.
3. Enertech as Operator is responsible to plug the well and restore the well site for its well, Enertech R5T21S6#1.
4. Enertech as Operator provided to the Division a Certificate of Deposit #9347465958, in the amount of \$15,000.00 (CD) to be held by Wells Fargo Bank as bonds to secure the plugging and abandonment of the wells as required by Utah Code § 40-6-5(2)(f) (2011) and Utah Admin. Code R649-3-1(1).
5. Enertech through its authorized agent executed a Collateral Bond agreement on the Division's form 4B which provides that the CD is payable to the Director of the Division of Oil, Gas and Mining as agent of the State of Utah unless the well is properly plugged and well site restored.

6. In addition to the CD provided to the Division as a bond, the Wells Fargo Bank provided the Division with a Time Account Receipt/Disclosure (identifying the number and amount of the CD and indicating it is to be automatically renewed).
7. On March 2, 2011, the Division wrote to inform Enertech that as of January, 2011 it was in non-compliance for extended shut-in or temporarily abandoned status pursuant to U.A.C. R649-3-36.
8. On September 14, 2011 Enertech informed the Division that it could not provide the necessary completion reports on the subject well and proposed that the Division begin to plug and abandon the well with the funds held in bond.
9. On December 1, 2011 the Division issued Enertech a letter informing it that the Division was seeking an Order requiring the plugging of the subject well as required by the rules and forfeiture of the surety in the event that Enertech did not plug the wells in accordance with its obligations under the rules.
10. On January 25, 2012, the Board granted the Division an order compelling the forfeiture of Enertech's bond.

CONCLUSIONS OF LAW

1. Enertech is required to plug and abandon the Enertech R5T21S6#1 oil and gas well in accordance with the Division's requirements and the requirements of U.A.C. R649-3-24.
2. If Enertech fails to contract for the work within 30 days and/or fails to complete the plugging and abandonment of the well as required with reasonable speed, that surety held to guarantee such work shall be forfeited to the Division, and the Division shall take appropriate action to plug and abandon the well with the funds from the surety.

3. In the event Enertech fails to plug the well, the Division may take such other actions as are reasonable and necessary to recover the costs of the plugging and abandonment and reclamation work, including recovery of penalties as appropriate in accordance with Utah Code § 40-6-11(3)(b) and (4).

ORDER

Based upon the Request, testimony, and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request in this cause is granted.
2. Provided that such order and judgment shall be held in abeyance for 30 days or until March 25, 2012 and provided further that forfeiture of the surety held for this well shall not occur prior to March 25, 2012 to provide opportunity to perform the plugging, abandonment, and reclamation required.
3. Enertech is ordered to immediately commence and complete plugging and reclamation of the well site for the Enertech R5T21S6#1 oil and gas well drilled at the following location in Section 6, Township 5, Range 21, Uintah County, Utah.
4. In the event Enertech shall fail to do so, the surety provided to ensure the plugging of said well, to wit: \$15,000 and is currently being held by Wells Fargo of Los Angeles, California, shall be forfeited to the State of Utah; and
5. The Division shall take such action as necessary and appropriate to plug and abandon the well in the event Enertech fails to do so.
6. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63G-4-208(e) - (g), the Board hereby

notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order is issued. Utah Code Ann. §§ 63G-4-401(3)(a) and 403. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63G-4-302, entitled, “Agency Review – Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be mailed to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, “Rehearing and Modification of Existing Orders,” states:

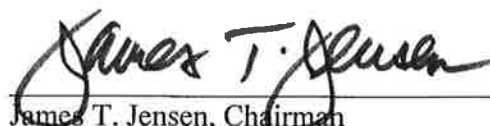
Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month.

Id. See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. § 63G-4-302 and the deadline in Utah Admin. Code R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

7. The Board retains continuing jurisdiction over all the parties and over the subject matter of this cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

DATED this 13th day of February, 2012.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

A handwritten signature in black ink, appearing to read "James T. Jensen", is written over a horizontal line.

James T. Jensen, Chairman
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER for Docket No. 2012-003, Cause No. 275-01 to be mailed with postage prepaid, this 13th day of February, 2012, to the following:

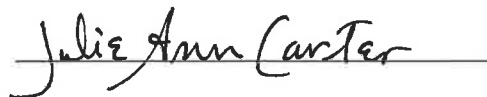
Enertech Energy, Inc.
1999 Avenue of the Stars, Ste 1100
Los Angeles, CA 90067

Michael S. Johnson
Assistant Attorneys General
Utah Board of Oil, Gas & Mining
1594 West North Temple, Suite 300
Salt Lake City, UT 84116
[Via Email]

Steven F. Alder
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Wells Fargo Bank
c/o Linda Rasheed
1801 Avenue of the Stars
Los Angeles, CA 90067

The State of Utah School and Institutional
Trust Lands Administration
c/o Ed Bonner
675 East 500 South, Suite 500
Salt Lake City, UT 84102

A handwritten signature in cursive script, reading "Julie Ann Carter", is written over a horizontal line.